

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

| | | |
|---|---|-------------------------------------|
| IN RE: PHARMACEUTICAL INDUSTRY |) | MDL NO. 1456 |
| AVERAGE WHOLESALE PRICE |) | |
| LITIGATION |) | CIVIL ACTION: 01-CV-12257-PBS |
| |) | Subcategory Docket: 06-CV-11337-PBS |
| |) | |
| THIS DOCUMENT RELATES TO |) | Judge Patti B. Saris |
| |) | |
| <i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i> |) | Magistrate Judge Marianne B. Bowler |
| <i>Inc. v. Abbott Laboratories, Inc., et al.,</i> No. |) | |
| 06-CV-11337-PBS |) | |
| |) | |
| <i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i> |) | |
| <i>Inc. v. Dey, Inc., et al.,</i> No. 05-CV-11084- |) | |
| PBS; and |) | |
| |) | |
| <i>U.S. ex rel. Ven-A-Care of the Florida Keys,</i> |) | |
| <i>Inc. v. Boehringer Ingelheim Corp., et al.,</i> |) | |
| No. 07-CV-10248-PBS |) | |

AMENDED DECLARATION OF DAVID S. TORBORG

I, David S. Torborg, do hereby declare as follows:

1. I am an attorney-at-law at Jones Day, counsel for Defendant Abbott Laboratories, Inc., (“Abbott”)

2. On behalf of Defendants Abbott Laboratories, Inc., Dey, Inc., Dey, L.P., Dey, L.P., Inc., Boehringer Ingelheim Roxane, Inc., and Roxane Laboratories, Inc., I am submitting with this declaration exhibits in support of Defendants’ Combined Local Rule 56.1 Statement of Additional Material Facts Pertinent to the United States’ Motions for Partial Summary Judgment Against Defendants.

3. The following exhibits are true and correct copies of the materials described:

| # | EXHIBIT DESCRIPTION | DEP. EXHIBIT |
|---|---------------------|--------------|
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| # | EXHIBIT DESCRIPTION | DEP. EXHIBIT |
|----|---|--------------|
| 1 | Sullivan Deposition Transcript Excerpt, 3/12/08 | N/A |
| 2 | Reid Deposition Transcript Excerpt, 12/15/08 | N/A |
| 3 | Ridout Deposition Transcript Excerpt, 12/5/08 | N/A |
| 4 | Kramer Deposition Transcript Excerpt, 3/25/08 | N/A |
| 5 | Affidavit of Sandy Kramer (unsigned) | Abbott 655 |
| 6 | November 30, 1992 State of Michigan Department of Social Services memorandum to Vern Smith regarding, "Elimination of Actual Acquisition Cost Reimbursement." | Abbott 656 |
| 7 | Nesser Deposition Transcript Excerpt, 12/12/08 | N/A |
| 8 | Campana Deposition Transcript Excerpt, 8/19/08 | N/A |
| 9 | Campana Deposition Transcript Excerpt, 8/20/08 | N/A |
| 10 | Bridges Deposition Transcript Excerpt, 12/11/08 | N/A |
| 11 | Chapman Deposition Transcript Excerpt, 12/15/08 | N/A |
| 12 | Wells Deposition Transcript Excerpt, 12/15/04 | N/A |
| 13 | Illinois Dept. of Public Aid, Description of Proposed FY '96 Budget Initiatives, 9/10/94 | Roxane IL 5 |
| 14 | Illinois Dept. of Public Aid, Memo from G. Hovanec to R. Wright re: IRMA/IPhA Budget Proposal, 5/1/95 | Roxane IL 7 |
| 15 | Illinois Dept. of Public Aid, Fax from R. Wright to R. Coolidge, SD Medicaid, 10/4/95 | Roxane IL 8 |
| 16 | Parker Deposition Transcript Excerpt, 11/18/08 | N/A |
| 17 | Affidavit of Ron Gottrich | N/A |
| 18 | Shirley Deposition Transcript Excerpt, 12/2/08 | N/A |
| 19 | Joyce Deposition Transcript Excerpt, 12/12/08 | N/A |
| 20 | Gorospe Deposition Transcript Excerpt, 3/19/08 | N/A |

| # | EXHIBIT DESCRIPTION | DEP. EXHIBIT |
|----|---|--------------|
| 21 | Gorospe Deposition Transcript Excerpt, 9/22/08 | N/A |
| 22 | Denemark Deposition Transcript Excerpt, 12/9/08 | N/A |
| 23 | Delaware response to September 1996 OIG Report | Dey 612 |
| 24 | Dubberly Deposition Transcript Excerpt, 12/15/08 | N/A |
| 25 | Terrebone Deposition Transcript Excerpt, 3/31/08 | N/A |
| 26 | Terrebone Deposition Transcript Excerpt, 11/7/08 | N/A |
| 27 | Tetkoski Deposition Transcript Excerpt, 12/11/08 | N/A |
| 28 | Cheloha Deposition Transcript Excerpt, 12/2/08 | N/A |
| 29 | December 1996, OIG Report, "Review of Pharmacy Acquisition Cost for Drugs Reimbursed Under The Medicaid Prescription Drug Program of the Nebraska Department of Social Services." | Dey 921 |
| 30 | Vaccaro Deposition Transcript Excerpt, 12/2/08 | N/A |
| 31 | Reed Deposition Transcript Excerpt, 9/26/07 | N/A |
| 32 | Reed Deposition Transcript Excerpt, 9/27/07 | N/A |
| 33 | Booth Deposition Transcript Excerpt, 10/29/07 | N/A |
| 34 | Gaston Deposition Transcript Excerpt, 1/24/08 | N/A |
| 35 | Vito Deposition Transcript Excerpt, 6/20/07 | N/A |
| 36 | Buto Deposition Transcript Excerpt, 9/13/07 | N/A |
| 37 | Jackson Deposition Transcript Excerpt, 12/12/08 | N/A |
| 38 | Duzor Deposition Transcript Excerpt, 10/30/07 | N/A |
| 39 | Vladeck Deposition Transcript Excerpt, 5/04/07 | N/A |
| 40 | Chesser Deposition Transcript Excerpt, 10/28/08 | N/A |
| 41 | 1994 OIG Work Papers (Former BX) | N/A |

| # | EXHIBIT DESCRIPTION | DEP. EXHIBIT |
|----|---|--------------|
| 42 | September 18, 1986 HCFA Regional Administrator for Region VI letter | Abbott 1109 |
| 43 | August 1989, The United States Senate Special Committee on Aging issued a Majority Staff Report titled, "Prescription Drug Prices: Are We Getting Our Money's Worth?" | Abbott 81 |
| 44 | September 1989, OIG Management Advisory Report, "The Use of Average Wholesale Prices in Reimbursing Pharmacies Participating in the Medicaid and Medicare Catastrophic Coverage Act Prescription Drug Program." | Dey 46 |
| 45 | 59 Fed. Reg. 59524 | N/A |
| 46 | October 1992, OIG Report "Cost of Dialysis-Related Drugs." | Abbott 82 |
| 47 | November 1992, OIG Report "Physician's Cost for Chemotherapy Drugs" | Abbott 79 |
| 48 | 1993 GAO Report, "Medicaid - Outpatient Drug Costs and Reimbursements for Selected Pharmacies - Illinois and Maryland" | Abbott 458 |
| 49 | Bill Alpert, June 1996, Barron's article, "Hooked on Drugs" | Abbott 16 |
| 50 | August 1997, OIG Report, "Medicaid Pharmacy – Actual Acquisition Cost of Generic Prescription Drug Products" | Abbott 158 |
| 51 | DHHS, Memo from J. Brown to B. Vladeck, 8/13/96 | Abbott 84 |
| 52 | December 1997 – OIG Report, "Excessive Medicare Payments for Prescription Drugs." | Abbott 49 |
| 53 | November 1998 OIG Report, "Comparing Drug Reimbursement: Medicare and Department of Veterans Affairs" | Abbott 101 |
| 54 | Duzor Deposition Transcript Excerpt, 3/26/08 | N/A |
| 55 | Reed Deposition Transcript Excerpt, 10/2/08 | N/A |

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|----|--|--------------|
| 56 | September 2002 OIG Report – Medicaid Pharmacy – Additional Analysis of the Actual Acquisition Cost of Prescription Drug Products | N/A |
| 57 | Cobo Deposition Transcript Excerpt, 1/8/08 | N/A |
| 58 | 1998 CBO Report, “How Increased Competition From Generic Drugs Has Affected Prices and Returns in the Pharmaceutical Industry” | Abbott 474 |
| 59 | August 30, 2004 Medicaid and Medicare Drug Pricing: Strategy to Determine Market Prices: Final Report | Abbott 381 |
| 60 | Medicare and Medicaid Programs; Limits on Payments for Drugs, 52 Fed. Reg. 28648 (July 31, 1987) | Abbott 284 |
| 61 | September 1, 1987 Letter from Department of Health & Human Services to President of American Pharmaceutical Association regarding alternatives to change the Medicaid reimbursement regulations that determine upper limits on payments for prescription drugs | Abbott 762 |
| 62 | August 1987 – Questions for HCFA on Medicaid Limits on Payments for Drugs | Abbott 763 |
| 63 | Smith Deposition Transcript Excerpt, 2/26/08 | N/A |
| 64 | Scully Deposition Transcript Excerpt, 5/15/07 | N/A |
| 65 | Scully Deposition Transcript Excerpt, 7/13/07 | N/A |
| 66 | DeParle Deposition Transcript Excerpt, 5/18/07 | N/A |
| 67 | DeParle Deposition Transcript Excerpt, 12/5/07 | N/A |
| 68 | Wiberg Deposition Transcript Excerpt, 3/14/08 | N/A |
| 69 | Shirley Deposition Transcript Excerpt, 12/3/08 | N/A |
| 70 | DOJ Response to Preliminary Injunction (December 6, 2007) | Abbott 1150 |
| 71 | Expert Report of Louis B. Rossiter | N/A |

| # | EXHIBIT DESCRIPTION | DEP. EXHIBIT |
|----|---|---------------|
| 72 | HHS News Release re: 1987 Medicaid Regulations, HHC002-0524-25 | N/A |
| 73 | Don M. Newman, Drug Topics, August 1987, (HHC902-1062-67) | N/A |
| 74 | Reed Deposition Transcript Excerpt, 3/20/08 | N/A |
| 75 | March 13, 2008 Email regarding Abbott R30b6 requests | Abbott 757 |
| 76 | September 28, 1987, "The Complicated History of Medicaid Regulations on Drug Reimbursement" by Robert B. Helms, Ph. D. | Abbott MD 005 |
| 77 | Expert Report of Robert B. Helms | N/A |
| 78 | HHS DAB Decision No. 1315, 3/18/02 | Abbott 1153 |
| 79 | State Plans | N/A |
| 80 | Vaccaro Deposition Transcript Excerpt, 12/3/08 | N/A |
| 81 | Avarista Deposition Transcript Excerpt, 12/4/08 | N/A |
| 82 | Duzor Deposition Transcript Excerpt, 2/27/08 | N/A |
| 83 | CBO Report, "Medicaid's Reimbursements to Pharmacies for Prescription Drugs," December 2004 | Abbott 475 |
| 84 | OIG Report, "Review of the Relationship Between Medicare Part D Payments to Local, Community Pharmacies and the Pharmacies' Drug Acquisition Costs (A-06-07-00107)," January 2008 | Abbott 477 |
| 85 | AWP-IL-00008066 | N/A |
| 86 | Iverson Deposition Transcript Excerpt, 12/15/08 | N/A |
| 87 | Record of Discussion (OIG/HCFR/Medicaid Pharmacy Reps.), 8/30/94-8/31/94 | Dey 609 |
| 88 | Denemark Deposition Transcript Excerpt, 2/10/08 | N/A |
| 89 | Wells Deposition Transcript Excerpt, 8/15/06 | N/A |

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|-----|---|------------------------|
| 90 | McCann Deposition Transcript Excerpt, 11/07/07 | N/A |
| 91 | Fine Deposition Transcript Excerpt, 12/9/08 | N/A |
| 92 | Kenyon Deposition Excerpt, 3/25/08 | N/A |
| 93 | March 1994 Medicaid Pharmacy Payments Actual Acquisition Cost & Estimated Acquisition Cost: Prepared by the Department of Social Services | Abbott 657 |
| 94 | Farrand Deposition Transcript Excerpt, 10/28/08 | N/A |
| 95 | CMS letter | Abbott 493 |
| 96 | Myers & Stauffer, A Survey of Acquisition Costs in Pharmaceuticals in the State of California, June 2002 | N/A |
| 97 | Myers & Stauffer Medi-Cal Report | Abbott Schondelmeyer 4 |
| 98 | Hansen Deposition Transcript Excerpt, 12/11/08 | N/A |
| 99 | Myers & Stauffer Reports, Alaska 1988-Kentucky 1998 (AUG) | Abbott-Hansen 005 |
| 100 | A Survey of Dispensing and Acquisition Costs of Pharmaceuticals in the State of Louisiana, September 1999 | Abbott 1051 |
| 101 | Myers & Stauffer, A Survey of Dispensing Costs of Pharmaceuticals in the Commonwealth of Kentucky, November 2001 | N/A |
| 102 | October 1, 2007 State Dispensing Fee Activities | Abbott 488 |
| 103 | Maryland Pharmacy Coalition, Federal Deficit Reduction Act Memo, December 2006 | Abbott 520 |
| 104 | DHHS, C. Harris Letter to J. Garner, Illinois Dept. of Public Aid re: State Plan Amendment, 9/19/01 | Abbott 769 |
| 105 | Email from G. Duerr, IDHW, to Maria Garza, HHS, Summary of Conference Call, 12/10/01 | Abbott 491 |
| 106 | Clifford Deposition Transcript Excerpt, 10/29/08 | N/A |

| # | EXHIBIT DESCRIPTION | DEP. EXHIBIT |
|-----|--|--------------|
| 107 | Email from K. Howell to P. Carson re: Wisconsin SPA 01-009 Prescription Drugs, 3/25/02 | Abbott 773 |
| 108 | Wisconsin Legislative Fiscal Bureau, Joint Committee on Finance, Paper #474, Reimbursement Rates for Prescription Drugs (DHFS—Medical Assistance), 6/4/01 | Abbott 1073 |
| 109 | Bridges Deposition Transcript Excerpt, 12/10/08 | N/A |
| 110 | Gorospe Deposition Transcript Excerpt, 12/03/08 | N/A |
| 111 | Rosenstein Deposition Transcript Excerpt, 5/19/09 | N/A |
| 112 | Walker Deposition Transcript Excerpt, 5/21/09 | N/A |
| 113 | First Health Services Corp. Chart re: Nebraska Medicaid Program, 10/5/08 | Dey 911 |
| 114 | Oregon State Plan, HHC020-0382 | N/A |
| 115 | OIG “Record of Discussion” (August 30-31, 1994) | Abbott 581 |
| 116 | OIG “Record of Discussion” (September 27-28, 1995) | Abbott 582 |
| 117 | DHHS Memorandum re: Review of Pharmacy Acquisition Costs for Drugs Reimbursed Under the Medicaid Prescription Drug Program of the Maryland Department of Health and Mental Hygiene, 2/12/97 | Abbott 1064 |
| 118 | Department of Health and Mental Hygiene memorandum with subject, “Office of the Inspector General (OIG) Report on Pharmacy Acquisition Costs,” April 16, 1997 | Abbott MD 30 |
| 119 | OIG Report, “Review of Pharmacy Acquisition Costs for Drugs Reimbursed Under the Medicaid Prescription Drug Program of the Virginia Department of Medical Assistant Services,” November 1996 | Roxane VA 5 |
| 120 | Tomlinson Deposition Transcript Excerpt, 11/3/08 | N/A |
| 121 | Montana Response to OIG 1996 Survey | Abbott 327 |
| 122 | Missouri Medicaid Response to OIG 1996 Survey | Roxane 144 |

| # | EXHIBIT DESCRIPTION | DEP. EXHIBIT |
|-----|--|--------------|
| 123 | California Response to OIG 1996 Survey | Abbott 325 |
| 125 | JDWA-0000107-08 | N/A |
| 126 | JDWA-000144 | N/A |
| 127 | JDWA-000233 | N/A |
| 128 | Homar Deposition Transcript Excerpt, 12/2/08 | N/A |
| 129 | March 1999, Myers and Stauffer report, "A Survey of Dispensing and Estimated Acquisition Costs of Pharmaceuticals in the State of Wyoming" prepared for the Wyoming Department of Health Division of Health Care Financing | Roxane WY 8 |
| 130 | WY00000074 | Roxane WY 9 |
| 131 | Homar Deposition Transcript Excerpt, 12/3/08 | N/A |
| 132 | Anderson Deposition Transcript Excerpt, 12/16/08 | N/A |
| 133 | OIG Report, "Medicaid Pharmacy – Actual Acquisition cost of Generic Prescription Drug Products" March 2002 | Roxane RI 12 |
| 134 | Young Deposition Transcript Excerpt, 12/03/08 | N/A |
| 135 | DHHS Memorandum re: Request for Policy Clarification on Tennessee's Interpretation of Usual and Customary Charges as Applied to Outpatient Drug Reimbursement—Action, 7/3/92 | Abbott 579 |
| 136 | CMS Medicaid Pharmacy Team "Review of Medicaid Drug State Plan Amendments" | Abbott 328 |
| 137 | October 22, 2002, CMS Administrator Tom Scully Memorandum, "Review of Medicaid Drug State Plan Amendments." HHD830-000001-04 | N/A |
| 138 | Howell Deposition Transcript Excerpt, 4/22/08 | N/A |
| 139 | Riordan to Neimann and Reed – FDB AWP's for Injection Infusion and Inhalation Drugs, April 1999 | Abbott 136 |

| # | EXHIBIT DESCRIPTION | DEP. EXHIBIT |
|-----|---|--------------------------|
| 140 | February 16, 2000 NAMFCU's Lupinetti letter to Wyoming Pharmacy Director advising of the substance of the procedures FDB will adopt and the effect it may cause | Abbott 137 |
| 141 | September 8, 2000 Program memorandum CMS to intermediaries and carriers with subject, "An Additional Source of Average Wholesale Price Data in Pricing Drugs and Biologicals Covered by the Medicare Program." | Abbott 184 |
| 142 | Sept. 2001 OIG Report, <i>Medicaid's Use of Revised Average Wholesale Prices</i> | Abbott 95 |
| 143 | Myers and Stauffer Reimbursement Summaries | N/A |
| 144 | June 2002, Missouri State Auditor Report "Cost Containment for State Drug Expenditures" HHD340-0031-34 | N/A |
| 145 | November 6, 2000 e-mail directing EDS not to use a new "Medicaid only" AWP pricing provided by First Data Bank (FDB) with attached memorandum to Susan P. Kennedy, Cabinet Secretary with subject, "Change in Prices for Medi-Cal Drugs." | Gorospe 14 (3/19/08 Dep) |
| 146 | Reed Deposition Transcript Excerpt 3/18/08 | N/A |
| 147 | Gaston Deposition Transcript Excerpt, 3/19/08 | N/A |
| 148 | June 22, 2000 Cody Wiberg Email to National Medicaid Pharmacy Administrators | Abbott 492 |
| 149 | June 20, 2000 New AWP's – State by State Information and Reactions | Abbott 584 |
| 150 | Email from M. Hazelwood to M. Schrober, 3/16/98 | Roxane IL 10 |
| 151 | Wimpee Deposition Transcript Excerpt, 11/24/08 | N/A |
| 152 | JD WA 1570-87 | N/A |
| 153 | HHC018-0045-50 | N/A |
| 154 | Walsh Deposition Transcript Excerpt, 3/26/08 | N/A |

| # | EXHIBIT DESCRIPTION | DEP. EXHIBIT |
|-----|---|--------------|
| 155 | 7/25/96 Debus Letter to Steffen | Abbott 309 |
| 156 | Rugg Deposition Transcript Excerpt, 12/15/08 | N/A |
| 157 | Proposed Sliding Scale Reimbursement Formula for Generic Drugs | Abbott MD 17 |
| 159 | Sexton Deposition Transcript Excerpt, 5/20/08 | N/A |
| 160 | June 5, 1991 – DHHS Federal Register 42 CFR Parts 405 and 415: Medicare Program; Fee Schedule for Physicians’ Services; Proposed Rule | Abbott 120 |
| 161 | 56 Fed. Reg. 59502, 59621 | Abbott 1020 |
| 162 | 1997 Balanced Budget Act – Title I – Food Stamp Provisions | Abbott 201 |
| 163 | Abbott Exhibit 529 (HCFA Program Transmittal Memorandum, Transmittal No. AB-98-76), December 1998 | Abbott 529 |
| 164 | Rules and Regulations: Department of Health and Human Services: Health Care Financing Administration, 42 CFR Parts 405, 413, and 415 | Abbott 301 |
| 165 | HHD816-0025-27 | N/A |
| 166 | March 15, 1994 Memorandum from Department of Health & Human Services to All Associate Regional Administrators for Medicare regarding, “Determination of Acquisition Cost of Drugs - - Information.” | Abbott 114 |
| 167 | 1999 Report to Congress, “The Average Wholesale Price For Drugs Covered Under Medicare” in 1999 (HHC902-0801-18) | N/A |
| 168 | Jones Deposition Transcript Excerpt | N/A |
| 169 | 63 Fed. Reg. 58814 | N/A |
| 170 | 2001 GAO Report, “Medicare Part B Drugs: Program Payments Should Reflect Market Prices | N/A |

| # | EXHIBIT DESCRIPTION | DEP. EXHIBIT |
|-----|--|--------------|
| 171 | Buto Deposition Transcript Excerpt, 9/12/07 | N/A |
| 172 | Booth Deposition Transcript Excerpt, 4/23/07 | N/A |
| 173 | Niemann Deposition Transcript Excerpt, 10/11/07 | N/A |
| 174 | Berenson Deposition Transcript Excerpt, 12/18/07 | N/A |
| 175 | Vito Deposition Transcript Excerpt, 6/19/07 | N/A |
| 176 | Ragone Deposition Transcript Excerpt, 4/18/07 | N/A |
| 177 | Tawes Deposition Transcript Excerpt, 4/24/07 | N/A |
| 178 | Tawes Deposition Transcript Excerpt, 4/25/07 | N/A |
| 179 | Thompson Deposition Transcript Excerpt, 3/28/08 | N/A |
| 180 | DHHS Memorandum re: Implementation of the New Payment Limit for Drugs and Biologicals, January 1998 | Abbott 1014 |
| 181 | DHHS Memorandum re: Implementation of the New Payment Limit for Drugs and Biologicals, December 1998 | Abbott 1015 |
| 183 | DHHS Memorandum re: Implementation of the New Payment Limit for Drugs and Biologicals, 11/14/00 | Abbott 1008 |
| 184 | DHHS Memorandum re: Payment Limits for Drugs and Biologicals, 5/22/2002 | Abbott 1011 |
| 185 | Vito Deposition Transcript Excerpt, 2/5/08 | N/A |
| 186 | Smith Deposition Transcript Excerpt, 3/27/08 | N/A |
| 187 | 2003 Compliance Program Guidance for Pharmaceutical Manufacturers | N/A |
| 188 | Clark Deposition Transcript Excerpt, 2/8/08 | N/A |
| 189 | Stone Deposition Transcript Excerpt, 2/28/08 | N/A |
| 190 | Stone Deposition Transcript Excerpt, 2/29/08 | N/A |
| 191 | Veal Deposition Transcript Excerpt, 3/25/08 | N/A |

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|-----|---|--------------|
| 192 | Walker Deposition Transcript Excerpt, 3/12/08 | N/A |
| 193 | Medicare Program Payment for Drugs – policy and proposal to eliminate the EAC criterion and add two others | Abbott 314 |
| 194 | May 31, 2000 Shalala letter to Tom Bliley regarding response to letter received regarding Clinton Administration’s efforts to obtain fair prices for the limited number of drugs that Medicare currently covers | Abbott 213 |
| 195 | December 13, 1997 White House Press Secretary – Remarks by President in Radio Address | Abbott 55 |
| 196 | Vladeck Deposition Transcript Excerpt, 6/21/07 | N/A |
| 197 | May 2000 Memo re: DOJ AWP | N/A |
| 198 | 3/13/09 Letter from J. Draycott to D. Torborg | N/A |
| 199 | May 18, 2000 CMS Deputy Administrator Michael M. Hash Memorandum to HHS Deputy Secretary Kevin Thurm re: DOJ AWP. (HHC902-214-44) | N/A |
| 200 | “Medicare Average Wholesale Price (AWP) for Drug Pricing— DECISION. ” (HHD340-0001-04) | N/A |
| 201 | 7/28/00 Letter to Shalala signed by 91 Members of Congress | Abbott 220 |
| 202 | September 8, 2000 Program Memorandum regarding “An Additional Source of Average Wholesale Price Data in Pricing Drugs and Biologicals Covered by the Medicare Program.” | Abbott 138 |
| 203 | HCFA Program Memorandum “Source of Average Wholesale Price Data in Pricing Drugs and Biologicals Covered by the Medicare Program” November 17, 2000 | Abbott 221 |
| 204 | Revisions to Average Wholesale Price Methodology (67 Fed. Reg. 74126) | N/A |

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|-----|---|--------------|
| 205 | Medicare Modernization Act (42 U.S.C. § 1395u(o)(1)(A)(iv)) | Abbott 194 |
| 206 | Richter Deposition Transcript Excerpt, 12/7/07 | N/A |
| 207 | Warren Deposition Transcript Excerpt, 11/6/07 | N/A |
| 208 | 60 Fed. Reg. 8951, 8953 | N/A |
| 209 | 1998 - Eli's Home Care Week Article | Abbott 54 |
| 210 | Niemann Deposition Transcript Excerpt, 9/14/07 | N/A |
| 211 | October 3, 2002 - Statement of the National Alliance for Infusion Therapy, and the National Home Infusion Association, Alexandria, Virginia | Abbott 18 |
| 212 | 70 Fed. Reg. 70116, 70225 (Nov. 21, 2005) | N/A |
| 213 | 69 Fed. Reg. 66236, 66339 (Nov. 15, 2004) | N/A |
| 214 | 70 Fed. Reg. 45764, 45847 (Aug. 8, 2005) | N/A |
| 215 | Muse & Assocs., The Costs of Delivering Inhalation Drug Services to Medicare Beneficiaries | N/A |

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on September 2, 2009 in Washington, District of Columbia.

/s/ David S. Torborg
David S. Torborg